

## UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

## MOTION INFORMATION STATEMENT

Docket Number(s): 16-345; 16-361

Caption [use short title]

Motion for: Consolidation of docket nos. 16-345 and 16-361Catskill Mountainkeeper, Inc., et al. v. FERC; no. 16-345Stop the Pipeline v. FERC; no. 16-361

Set forth below precise, complete statement of relief sought:

Respondent Federal Energy Regulatory Commissionrequests the consolidation of docket nos. 16-345and 16-361 because the two cases challengethe same agency orders and raise commonquestions of law and fact.MOVING PARTY: Federal Energy Regulatory Commission☐ Plaintiff☐ Defendant☐ Appellant/Petitioner☒ Appellee/RespondentOPPOSING PARTY: Catskill Mountainkeeper, Inc. & Stop the PipelineMOVING ATTORNEY: Karin L. LarsonOPPOSING ATTORNEY: Moneen Nasmith, Earthjustice, 19th Floor,

[name of attorney, with firm, address, phone number and e-mail]

FERC48 Wall St., N.Y., N.Y. 10005, 212-845-7384, mnasmith@earthjustice.org888 First Street, NE, Washington D.C. 20426Todd Ommen, Pace Environmental Law Clinic, 78 N. Broadway202-502-8236; karin.larson@FERC.govWhite Plains, NY 10603, 914-422-4343, tommen@pace.law.eduCourt-Judge/Agency appealed from: Federal Energy Regulatory Commission

## Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes ☐ No (explain): \_\_\_\_\_

Opposing counsel's position on motion:

☒ Unopposed ☐ Opposed ☐ Don't Know

Does opposing counsel intend to file a response:

☐ Yes ☒ No ☐ Don't KnowFOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND  
INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes ☐ No

Has this relief been previously sought in this Court?

☐ Yes ☐ No

Requested return date and explanation of emergency: \_\_\_\_\_

Is oral argument on motion requested?

☐ Yes ☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes ☒ No If yes, enter date: \_\_\_\_\_

Signature of Moving Attorney:

/s/ Karin L. LarsonDate: March 1, 2016Service by: ☒ CM/ECF☐ Other [Attach proof of service]

**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

Catskill Mountainkeeper, Inc., Clean Air )  
Council, Delaware-Otsego Audubon Society, Inc., )  
Riverkeeper, Inc. and Sierra Club )  
Petitioners, )  
v. ) No. 16-345  
Federal Energy Regulatory Commission )  
Respondent, )  
Constitution Pipeline Co., LLC and )  
Iroquois Gas Transmission System, L.P. )  
Intervenors. )

Stop the Pipeline )  
 Petitioner, )  
 ) No. 16-361  
 v. )  
 )  
 Federal Energy Regulatory Commission )  
 Respondent. )  
 )

**RESPONDENT’S UNOPPOSED MOTION TO CONSOLIDATE  
CASE NOS. 16-345 AND 16-361**

Pursuant to Rule 27 of the Federal Rules of Appellate Procedure, Respondent Federal Energy Commission (“FERC” or the “Commission”) hereby moves the Court to consolidate case nos. 16-345 and 16-361. No party to these proceedings opposes the requested relief.

On February 5, 2016, Catskill Mountainkeeper, Inc., Clean Air Council, Delaware-Otsego Audubon Society, Inc., Riverkeeper, Inc., and Sierra Club (together “Catskill Mountainkeeper”) filed a petition for review challenging two Commission orders: (1) “Order Issuing Certificates and Approving Abandonment,” *Constitution Pipeline Co.*, 149 FERC ¶ 61,199 (2014); and (2) “Order Denying Rehearing and Approving Variance,” *Constitution Pipeline Co.*, 154 FERC ¶ 61,046 (2016). On the same day, in case no. 16-361, Stop the Pipeline filed a petition for review challenging the same FERC orders. The two petitions for review in case nos. 16-345 and 16-361 raise common questions of law and fact and involve the same respondent, the Commission, and the same Commission orders.

Good cause exists to consolidate. This Court has permitted consolidation of related appeals where “consolidation would be both efficient and equitable for the disposition of the appeals.” *Chem One., Ltd. v. M/V RICKMERS GENOA*, 660 F.3d 626, 642 (2d Cir. 2011). Consolidation of the cases here would ensure the most efficient use of the Court’s resources, avoid any inconsistency in the Court’s decisions, and spare the parties unnecessary expense. Thus, the Commission respectfully requests that the Court consolidate case nos. 16-345 and 16-361 and that the Court grant this motion as expeditiously as possible so that the parties may attempt to negotiate a joint proposed briefing schedule for the consolidated cases.

Counsel for the Commission has spoken with counsel for petitioners Catskill Mountainkeeper and Stop the Pipeline, as well as interventors Constitution Pipeline Company, LLC and Iroquois Gas Transmission System, L.P. and is authorized to state that none of the parties object to this motion.

Respectfully submitted,

Robert H. Solomon  
Solicitor

/s/ Karin L. Larson  
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Attorney

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March 1, 2016

*Catskill Mountainkeeper, Inc., et al.*

*v. FERC*, No. 16-345; and

*Stop the Pipeline v. FERC*, No. 16-361 (not consolidated)

### **CERTIFICATE OF SERVICE**

In accordance with Fed. R. App. P. 25(d) and Circuit Rule 25.1(h), I hereby certify that I have, this 1st day of March, 2016, filed the foregoing via the Court's CM/ECF system. The participants in the cases are registered CM/ECF users and service will be accomplished to the counsel listed below through the Court's CM/ECF system:

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